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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,000	05/03/2006	Shizuo Manabe	HIR-0037	5200
23353 7590 06/27/2008 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036				
EXAMINER				
FAN, CHARLES C				
ART UNIT		PAPER NUMBER		
2628				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,000

Applicant(s)

MANABE, SHIZUO

Examiner

CHARLES FAN

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 5/03/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims do not expressly or implicitly require performance of any of the steps by a machine, such as a general-purpose computer. There are several tests that can be applied to determine whether claims are directed toward statutory subject matter. They include: (1) a process under 35 USC 101 requires a transformation of physical subject matter, tangible or intangible, to a different state or thing; (2) the “abstract idea” exception; and (3) the claim must recite a practical application, that is a useful, concrete, and tangible result. It is noted that claims that are broad enough to read on statutory and nonstatutory subject matter are considered nonstatutory. Claims 1-10 is directed to a computer program and do not require a transformation any physical subject matter, tangible or intangible, into a different state or thing. The claims are drawn simply to the computer software (i.e. software application), which is merely a set of instructions capable of being executed by a computer when the computer software is run on a computer for displaying a smear image taken with a scale factor. It is noted that claims to the computer program/software *per se* are not a process and without the computer-readable medium needed to realize the computer program/software’s functionality are nonstatutory functional descriptive material. See MPEP 2106 IV B 1(a). Specifically, a claim to computer program or a tangible computer-readable medium encoded with a computer

program/software is statutory because it is a computer element, which defines structural and functional interrelationships between the computer program and other component of a computer, which permits the computer program/software's functionality to be realized.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Kobari et al. (Japanese Publication No. 8-167039).

In re claim 2, Kobari et al. discloses perform tilting placement to diagonally place the character string along the longest demarcated region segment among demarcated region segments that demarcate the demarcated region ([0019]-[0025]).

3. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Freeman et al. (US Pat. No. 5,724,072).

In re claim 3, Freeman et al. perform pull-out placement to place the character string in an adjacent demarcated region in which the longest demarcated region segment among the

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demarcated region segments that demarcate the demarcated region is 35 located, the longest demarcated region segment being shared between the demarcated region and a neighboring demarcated region (Column 5, lines 53-65).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobari et al. (Japanese Publication No. 8-167039) in further view of Fushiki et al. (US Pat. No. 6,868,524).

In re claim 1, Kobari et al. discloses selecting the longest of the lines ([0015]-[0018]). It is noted that the Kobari et al. does not disclose the prospective guide lines. However, Fushiki et al. discloses producing scan lines to determine string placement (Fig. 4a). It would have been obvious to one of ordinary skill to use the scan lines of Fushiki et al. of which the length determiner of Kobari et al. with the motivation of finding the best place to a label.

In re claim 4, Kobari et al. discloses adjusting placement to move the placed character string vertically or horizontally within the demarcated region [0026] and selecting the longest of the lines ([0015]-[0018]). It is noted that the Kobari et al. does not disclose the prospective guide lines. However, Fushiki et al. discloses producing scan lines to determine string placement (Fig. 4a). It would have been obvious to one of ordinary skill to use the scan lines of Fushiki et al. of which the length determiner of Kobari et al. with the motivation of finding the best place to a label.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobari et al. (Japanese Publication No. 8-167039) in further view of Fushiki et al. (US Pat. No. 6,868,524) and Freeman et al. (US Pat. No. 5,724,072).

In re claim 5, it is noted that Kobari et al. and Fushiki et al. do not disclose placing the label in the center. However Freeman et al. discloses placing the label into the geographic center (Column 8 lines 21-40). It would have been obvious to one of ordinary skill to not only choose the middle of the scan lines from Kobari et al. and Fushiki et al but also to center it on the lines from Freeman with the motivation of having better placement for label for maps such a soil survey maps.

8. Claims 6-7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobari et al. (Japanese Publication No. 8-167039) in further view of Fushiki et al. (US Pat. No. 6,868,524) and Freeman et al. (US Pat. No. 5,724,072).

In re claims 6, 7, Kobari et al. and Fushiki et al. disclose the inclination of the line if it does not fit ([0015] – [0026]). It is noted that Kobari et al. and Fushiki et al. do not disclose pop out placement. However, Freeman et al. discloses the pop out placement (Column 5, lines 53-65). It would have been obvious to combine the inclining and placement of the line and case method of inclining if the line doesn't fit of Kobari et al. and Fushiki et al. and add the case where the string can't fit inside and use the pop out method of Freeman et al. with the motivation of getting the better way to place the string.

In re claim 10, Kobari et al. and Fushiki et al. disclose the inclination of the line if it does not fit ([0015] – [0026]). It is noted that Kobari et al. and Fushiki et al. do not disclose pop out placement placing the label into the geographic center (Column 8 lines 21-40). However, Freeman et al. discloses the pop out placement (Column 5, lines 53-65) placing the label into the geographic center (Column 8 lines 21-40). It would have been obvious to combine the inclining and placement of the line and case method of inclining if the line doesn't fit of Kobari et al. and Fushiki et al. and add the case where the string can't fit inside and use the pop out method of Freeman et al. with the motivation of getting the better way to place the string.

9. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobari et al. (Japanese Publication No. 8-167039) in further view of Fushiki et al. (US Pat. No. 6,868,524), Freeman et al. (US Pat. No. 5,724,072), and Yoshimura et al. (Japanese Publication No. 9-185696).

In re claims 8-9, it is noted that Fushiki et al and Fushiki et al. and Freeman et al. do not disclose replacement placement. However, Yoshimura et al. discloses replacement placement [0118]. It would have been obvious to combine the if statement and string placement of Fushiki

et al., Fushiki et al. and Freeman et al. with the added if statement for replacement placement of Yoshimura et al. with the motivation of automatically shortening the string.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang (US Pat. No. 4, 829,470) discloses having text flow around irregular objects. Hollingsworth et al. (US Pat. No. 5,444,836) discloses placement of objects and text in a CAD environment. Agrawal (US Pat. No. 6,081,816) discloses placing text around polygons. Wiley et al. (US Pat. No. 6,154,219) discloses placing labels on maps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES FAN whose telephone number is (571)270-3550. The examiner can normally be reached on mon- fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on (571)272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CFan

/XIAO M. WU/
Supervisory Patent Examiner, Art Unit 2628